



House of Representatives

General Assembly

File No. 298

January Session, 2013

Substitute House Bill No. 6472

House of Representatives, April 2, 2013

The Committee on Energy and Technology reported through REP. REED of the 102nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-40g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section:

4 (1) "Energy improvements" means (A) participation in a district
5 heating and cooling system by qualifying commercial real property,
6 (B) any renovation or retrofitting of qualifying commercial real
7 property to reduce energy consumption, or (C) installation of a
8 renewable energy system to service qualifying commercial real
9 property, provided such renovation, retrofit or installation, described
10 in subparagraph (B) or (C) of this subdivision, is permanently fixed to
11 such qualifying commercial real property;

12 (2) "Qualifying commercial real property" means any commercial or

13 industrial property, regardless of ownership, that meets the
14 qualifications established for the commercial sustainable energy
15 program;

16 (3) "Commercial or industrial property" means any real property
17 other than a residential dwelling containing less than five dwelling
18 units;

19 (4) ["Benefitted"] Benefited property owner" means an owner of
20 qualifying commercial real property who desires to install energy
21 improvements and provides free and willing consent to the benefit
22 assessment against the qualifying commercial real property;

23 (5) "Commercial sustainable energy program" means a program that
24 facilitates energy improvements and utilizes the benefit assessments
25 authorized by this section as security for the financing of the energy
26 improvements;

27 (6) "Municipality" means a municipality, as defined in section 7-369;

28 (7) "Benefit assessment" means the assessment authorized by this
29 section;

30 (8) "Participating municipality" means a municipality that has
31 entered into a written agreement, as approved by its legislative body,
32 with the authority pursuant to which the municipality has agreed to
33 assess, collect, remit and assign, benefit assessments to the authority in
34 return for energy improvements for benefited property owners within
35 such municipality and costs reasonably incurred in performing such
36 duties; and

37 (9) "Authority" means the Clean Energy Finance and Investment
38 Authority.

39 (b) (1) The authority shall establish a commercial sustainable energy
40 program in the state, and in furtherance thereof, is authorized to make
41 appropriations for and issue bonds, notes or other obligations for the
42 purpose of financing, (A) energy improvements; (B) related energy

43 audits; (C) renewable energy system feasibility studies; and (D)
44 verification reports of the installation and effectiveness of such
45 improvements. The bonds, notes or other obligations shall be issued in
46 accordance with legislation authorizing the authority to issue bonds,
47 notes or other obligations generally. Such bonds, notes or other
48 obligations may be secured as to both principal and interest by a
49 pledge of revenues to be derived from the commercial sustainable
50 energy program, including revenues from benefit assessments on
51 qualifying commercial real property, as authorized in this section.

52 (2) When the authority has made appropriations for energy
53 improvements for qualifying commercial real property or other costs
54 of the commercial sustainable energy program, including interest costs
55 and other costs related to the issuance of bonds, notes or other
56 obligations to finance the appropriation, the authority may require the
57 participating municipality in which the qualifying commercial real
58 property is located to levy a benefit assessment against the qualifying
59 commercial real property especially benefited thereby.

60 (3) The authority (A) shall develop program guidelines governing
61 the terms and conditions under which state financing may be made
62 available to the commercial sustainable energy program, including, in
63 consultation with representatives from the banking industry,
64 municipalities and property owners, developing the parameters for
65 consent by existing mortgage holders and may serve as an aggregating
66 entity for the purpose of securing state or private third-party financing
67 for energy improvements pursuant to this section, (B) shall establish
68 the position of commercial sustainable energy program liaison within
69 the authority, (C) shall establish a loan loss reserve or other credit
70 enhancement program for qualifying commercial real property, (D)
71 may use the services of one or more private, public or quasi-public
72 third-party administrators to administer, provide support or obtain
73 financing for the commercial sustainable energy program, and (E) shall
74 adopt standards to ensure that the energy cost savings of the energy
75 improvements over the useful life of such improvements exceed the
76 costs of such improvements.

77 (c) Before establishing a commercial sustainable energy program
78 under this section, the authority shall provide notice to the electric
79 distribution company, as defined in section 16-1, that services the
80 participating municipality.

81 (d) If a [benefitted] benefited property owner requests financing
82 from the authority for energy improvements under this section, the
83 authority shall:

84 (1) Require performance of an energy audit or renewable energy
85 system feasibility analysis on the qualifying commercial real property
86 that assesses the expected energy cost savings of the energy
87 improvements over the useful life of such improvements before
88 approving such financing;

89 (2) If financing is approved, require the participating municipality
90 to levy a benefit assessment on the qualifying commercial real
91 property with the property owner in a principal amount sufficient to
92 pay the costs of the energy improvements and any associated costs the
93 authority determines will benefit the qualifying commercial real
94 property;

95 (3) Impose requirements and criteria to ensure that the proposed
96 energy improvements are consistent with the purpose of the
97 commercial sustainable energy program;

98 (4) Impose requirements and conditions on the financing to ensure
99 timely repayment, including, but not limited to, procedures for placing
100 a lien on a property as security for the repayment of the benefit
101 assessment; and

102 (5) Require that the property owner provide written notice, not less
103 than thirty days prior to the recording of any lien securing a benefit
104 assessment for energy improvements for such property, to any existing
105 mortgage holder of such property, of the property owner's intent to
106 finance such energy improvements pursuant to this section.

107 (e) (1) The authority may enter into a financing agreement with the

108 property owner of qualifying commercial real property. After such
109 agreement is entered into, and upon notice from the authority, the
110 participating municipality shall place a caveat on the land records
111 indicating that a benefit assessment and lien is anticipated upon
112 completion of energy improvements for such property.

113 (2) The authority shall disclose to the property owner the costs and
114 risks associated with participating in the commercial sustainable
115 energy program established by this section, including risks related to
116 the failure of the property owner to pay the benefit assessment. The
117 authority shall disclose to the property owner the effective interest rate
118 of the benefit assessment, including fees charged by the authority to
119 administer the program, and the risks associated with variable interest
120 rate financing. The authority shall notify the property owner that such
121 owner may rescind any financing agreement entered into pursuant to
122 this section not later than three business days after such agreement.

123 (f) The authority shall set a fixed or variable rate of interest for the
124 repayment of the benefit assessment amount at the time the benefit
125 assessment is made. Such interest rate, as may be supplemented with
126 state or federal funding as may become available, shall be sufficient to
127 pay the financing and administrative costs of the commercial
128 sustainable energy program, including delinquencies.

129 (g) Benefit assessments levied pursuant to this section and the
130 interest, fees and any penalties thereon shall constitute a lien against
131 the qualifying commercial real property on which they are made until
132 they are paid. Such lien shall be levied and collected in the same
133 manner as the property taxes of the participating municipality on real
134 property, including, in the event of default or delinquency, with
135 respect to any penalties, fees and remedies and lien priorities. Each
136 such lien may be continued, recorded and released in the manner
137 provided for property tax liens, subject to the consent of existing
138 mortgage holders, and shall take precedence over all other liens or
139 encumbrances except a lien for taxes of the municipality on real
140 property, which lien for taxes shall have priority over such benefit

141 assessment lien.

142 (h) Any participating municipality may assign to the authority any
 143 and all liens filed by the tax collector, as provided in the written
 144 agreement between the participating municipality and the authority.
 145 The authority may sell or assign, for consideration, any and all liens
 146 received from the participating municipality. The consideration
 147 received by the authority shall be negotiated between the authority
 148 and the assignee. The assignee or assignees of such liens shall have and
 149 possess the same powers and rights at law or in equity as the authority
 150 and the participating municipality and its tax collector would have had
 151 if the lien had not been assigned with regard to the precedence and
 152 priority of such lien, the accrual of interest and the fees and expenses
 153 of collection. The assignee shall have the same rights to enforce such
 154 liens as any private party holding a lien on real property, including,
 155 but not limited to, foreclosure and a suit on the debt. Costs and
 156 reasonable attorneys' fees incurred by the assignee as a result of any
 157 foreclosure action or other legal proceeding brought pursuant to this
 158 section and directly related to the proceeding shall be taxed in any
 159 such proceeding against each person having title to any property
 160 subject to the proceedings. Such costs and fees may be collected by the
 161 assignee at any time after demand for payment has been made by the
 162 assignee.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	16a-40g
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Statement of Legislative Commissioners:

In section 1(a)(1), the new text in the "provided" clause was rephrased for statutory consistency.

ET *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which allows district heating and cooling projects to be financed under the commercial property assessed clean energy (C-PACE) program, has no fiscal impact to the state or municipalities as a special assessment would be attached to the property tax of private participating property owners.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6472****AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM.****SUMMARY:**

This bill adds district heating and cooling projects to the types of energy efficiency and renewable energy improvements that may be financed under the commercial property assessed clean energy (C-PACE) program. Under current law, energy efficiency and renewable energy improvements are eligible for the program.

District heating and cooling systems typically include a (1) network of pipes that connect buildings and (2) a central facility used to heat and cool them. The Legislative Office Building and the Capitol are served by such a system.

EFFECTIVE DATE: Upon passage

BACKGROUND***C-PACE Program***

The law requires the Clean Energy Finance and Investment Authority to establish a [C-PACE program](#) for qualifying commercial property (including multifamily buildings with five or more units). Under the program, owners of qualified commercial property in participating municipalities may finance energy improvements with the cost repaid by a special assessment on the participant's property tax bill. Municipalities can participate in the program under a written agreement approved by their legislative bodies.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 24 Nay 0 (03/14/2013)